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0360

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert James Monson and Wesley Eugene Revely Attorney file: 5591  
Serial No.: 10/055,752 Examiner:  
Filed: 1/23/02 Group: 3745  
For: FLAT FAN DEVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington D.C. 20231 on SEPT 4, 2002 by applicant's attorney, Carl L. Johnson.

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SEPT 4, 2002

Date

Honorable Commissioner of Patents and Trademarks  
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**REQUEST FOR RECONSIDERATION OF DISMISSAL OF PETITION REGARDING  
NOTICE OF OMITTED ITEM**

On August 30, 2002 the Office of Petitions denied applicants petition to accept substitute drawings based on the postcard failing to specifically indicate how many sheets of drawings had been sent. The Office stated because the postcard did not specifically state that there were four sheets of drawings the petition was denied. The Office also concluded that drawings were not necessary to the filing date since the method claims did not require a drawing.

The applicant request reconsideration of the decision denying the acceptance of the substitute drawings on the following basis:

1. MPEP 504 states that "If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items" (emphasis added) Attention is called to the postcard, which was previously submitted as EX A, and more specifically to the portion of the postcard listing drawings as part of the application.

Note, the portion of the postcard relating to drawings has not been crossed off nor are there any initials next any item on the postcard.

2. The Postcard (Prior EX A) was marked with a filing date of 1/23/02 raising a presumption that the application was complete as of the time of review of the USPTO, which date is January 23, 2002, in view of applicant's use of Express Mail Filing.

3. The back of the Postcard (attached hereto as EX C) carries a postmark of February 4, 2002 indicating that as of February 4, 2002 there was no indication from the USPTO that the drawings were not in the application. If the drawings were truly missing this is the first opportunity the office had to indicate the drawings were not present. However, the record shows that the Office did not indicate the drawings were not present.

4. Note, the specification specifically refers to Figures 1-11 as being part of the application thus any review of the application for completeness at filing should have triggered a question as to the presence of the drawings if indeed the drawings were not present.

5. On February 15, 2002 the Office sent out a filing receipt (Prior Ex B,) with still no indication of missing parts. This is the second opportunity the office had to indicate that the drawings were not present. However, the record shows that the office did not indicate the drawings were not present as of February 15, 2002 since applicant was sent a filing receipt.

6. Not until four months after the sending of the filing receipt (6/18/02) did the office notify the applicant that there were no drawings by mailing out notice of incomplete application (EX D) .

Applicant submits it is not privy to the handling of applications in the Office, however, twice notices were received from the Office with no indication that the drawings were not present in the file. Not until some five months after receipt of the original papers by the Office did the Office raise an issue that drawings are not present.

As evidence in support of the sending of drawings to the office with the original application the applicant previously submitted:

1. A declaration of Carl L. , the attorney of record, stating that 4 sheets of drawing were included with the copy of the application sent to the Patent Office.

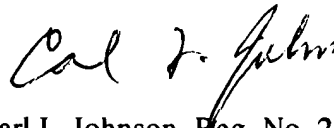
2. A corroborating declaration of Thomas Phung.

It is submitted when the record in its entirety is considered the evidence shows the drawings were lost sometime between February 15, 2002 (when the filing receipt was sent out) and June 18, 2002 (when the date notice of missing parts was sent out). Since the papers were exclusively under the control of the PTO during this period it is submitted that the drawings were lost in the Office and that the petition to accept the drawings be accepted and the applicant be accorded the filing date of January 23, 2002.

The applicant request that the Office withdraw the notice of missing drawings and that the 4 sheets drawings be accorded the filing date of January 23, 2002. Please charge any petition fees to deposit account 10-0210.

**JACOBSON AND JOHNSON**

By



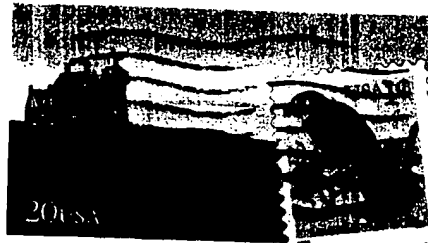
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CLJ/cj  
Enclosure

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EXC



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EXD

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/055,752	01/23/2002	Robert James Monson	5591 EA-00059

Carl L. Johnson  
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SEP 25 2002  
TECHNOLOGY CENTER R3700CONFIRMATION NO. 7386  
FORMALITIES LETTER  
  
\*OC000000008307661\*RECEIVED  
Date Mailed: 06/18/2002  
SEP 30 2002  
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## NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).

A copy of this notice MUST be returned with the reply.

  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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